

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16119 of the Exxon Company, U.S.A., a division of the Exxon Corporation, pursuant to 11 DCMR 3108.1 and 3107.2, for a special exception under Subsection 726.1 to construct a new gasoline station, a special exception under Subsection 2514.2 to allow a portion of the service station in a residence district, and a variance to allow a gasoline service station within 25 feet of a residence district (Subsection 706.3) for the construction of a new gasoline service station and retail convenience store in a C-2-A/R-2 Districts at premises 7401 Georgia Avenue, N.W. (Square 2962, Lot 810).

HEARING DATE: May 15, 1996
DECISION DATE: May 15, 1996 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 4B and to owners of property within 200 feet of the site.

The site of this application is located within the jurisdiction of ANC 4B. ANC 4B, which is automatically a party to the application did not file a written statement of issues and concerns related to the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 706.3 and a special exception pursuant to Sections 726 and 2514.2. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107 that there exists an exceptional or extraordinary situation or condition related to the property which creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. The Board concludes that granting the requested relief will not tend to affect adversely the use of

neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**, **SUBJECT** to the following **CONDITIONS** based on a Memorandum of Understanding dated December 5, 1995 and revised April 29, 1996 (Exhibit No. 20 Statement of the Applicant at pages 50 and 59 of the record):

1. Exxon will redevelop the subject site in accordance with the plans marked as Plan #2, dated April 29, 1996, and filed with the Gas Station Advisory Board in Application No. 95-2, and with the BZA in Application No. 16119 (the "Revised Plans" marked as Exhibit No. 20A of the record). The revised Plans differ from the Plans in the following six respects:

(a) The footprint of the new gasoline station building has expanded by five feet three inches in depth. The rear face of the building will abut and be flush with the west face of the masonry wall to be erected along the eastern lot line along the alley. There will be no area for lighting or landscaping between the building and the wall. All lighting and landscaping requirements in this location are deleted.

(b) The gasoline pumps have all shifted three feet to the south. In addition, the main portion of the canopy has expanded by four feet in length and seven feet in width.

(c) Two additional parking spaces have been added to the site plan, beneath the portion of the canopy adjacent to the gasoline station building.

(d) Double headed flood lights will be installed at the northeast and southeast corners of the building, aimed in a northeast and southeast direction, to provide light in the alley. The lights will be turned on whenever the yard lights around the station perimeter (as shown on the Revised Plans) are turned on.

(e) The landscaping on both the north and south sides of the gasoline station building will continue up to the building face. Further, the sidewalks around the north and south sides of the building will terminate at the landscaping curb, and will not continue to the rear of the building.

(f) The exterior camera mounted on the north side of the building will be moved westward to approximately the mid-point between the front and back of the building.

The plans include a detailed site plan, landscaping plan, and lighting plan. Exxon will give a copy of those Plans to Oluwo, CNI and ANC.

2. Exxon will not install any exterior intercom speakers on the subject site which point eastward toward the residential homes across the alley. Exxon intends to install exterior speakers with volume control on the multi-product dispensers (MPDs), and they will be pointed downward.

3. To further control sound emanating from the subject site, a sound deadening and aesthetically pleasing wall of a masonry or concrete-type material will be erected by Exxon along the entire length of the eastern boundary of the subject site, adjacent to the public alley, to a height of eight feet six inches. The parties expressly recognize that the D.C. Construction Codes Supplement, 12 DCMR Section 515, limits the height of a wall or fence at this location to seven feet, but authorizes the Code official to approve a greater height, if the public alley is 15 feet or more in width. The parties also expressly recognize that there is a building restriction line on the subject site, parallel to the south lot line, to a depth of 15 feet, and that 12 DCMR Section 515 requires that walls or fences within a building restriction area be governed by the requirements for fences on public property. If a variance or waiver is required in order to construct a continuous eight foot six inch wall along the east lot line, then Exxon will file and process such variance or waiver in good faith, and CNI and ANC will support the variance or waiver request in writing to the appropriate Code official. However, if the variance is not granted, the height of the fence will be the highest allowed by D.C. Construction Codes. Exxon also agrees that the wall will be made "graffiti-resistant," such that graffiti that is sprayed or painted on can be easily removed.

Exxon will make available to CNI and ANC for review, printed material or actual samples of the masonry block for the wall to be constructed along the alley. CNI and ANC will select the masonry block to be used for the wall from among those examples provided.

4. Exxon will plant a continuous row of Leyland Cypress trees, at a height of six-eight feet when planted, along the west side of the wall to be constructed pursuant to Paragraph 3 herein.

5. Exxon will install exterior lighting on the subject site in accordance with the Plans. The lights to be installed will include three lights mounted on the west face of the wall along the east lot line, directly behind the convenience store building (the "Building"). To further secure the aforementioned area, wall "extensions" will be constructed perpendicular to the wall along the east lot line, extending to the northeast and southeast corners of the Building. One

of these "extensions" will include a doorway or other means to gain access to the enclosed area, which doorway shall remain locked.

6. Exxon will install three outdoor cameras on the subject site for security surveillance purposes. One will be located on the front of the Building facing westward toward the gasoline pumps. A second camera will be installed on the north side of the Building generally facing northward, and a third camera will be installed on the south side of the Building generally facing southward.

7. Parking areas on the subject site will be in accordance with the Plans. No parking will be permitted, except in accordance with the Plans. No unauthorized vehicle repairs will be permitted to be conducted on the subject site. Exxon will install signs at appropriate locations on the subject site, indicating that parking on the site is for Exxon customers only, that auto repair work is not permitted on the subject site, and that loitering is not permitted on the subject site. If such unauthorized activities take place on the site, and are observed by employees of Exxon and/or Oluwo, then they will call the police to request their assistance in removing such unauthorized activities. If unauthorized parking occurs on the site, then Exxon and/or Oluwo will take the necessary steps to have the unauthorized vehicles removed from the property.

8. Neither Exxon nor Oluwo will install, nor will they allow to be installed, any exterior pay telephones on the subject site. This is not intended to prohibit interior pay telephones inside the Building for legitimate use by Exxon customers.

9. Exxon and Oluwo intend to operate the gasoline station on a 24-hour basis for gasoline sales. Customers will be permitted inside the Building from 5:00 a.m. to 11:00 p.m., seven days per week. From 11:00 p.m. to 5:00 a.m. all sales from the Building will be conducted through a cash drawer or other means, such that the customer will be outside of the Building conducting the transaction with the clerk inside the Building. The restrooms shown on the Plans will be accessible only from the inside of the Building and will not be available to customers between the hours of 11:00 p.m. and 5:00 a.m.

10. Construction activities for the new gasoline station, including removal of the existing improvements shall be conducted only during the hours of 7:00 a.m. to 8:00 p.m., Monday-Friday, and 8:00 a.m. to 8:00 p.m., Saturday and Sunday.


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Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Susan Morgan Hinton, Maybelle Taylor Bennett and Laura M. Richards to grant; Sheila Cross Reid and Angel F. Clarens not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

JUN 4 1996

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

ord16119/RCL/LJP

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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUN 4 1986 a copy of the order entered on that date in this matter was mailed postage prepaid to each person who appeared and participated in the public hearing concerning this matter, and who is listed below:

Christopher H. Collins, Esquire
Wilkes, Artis, Hedrick and Lane
1666 K Street, N.W., Suite 1100
Washington, D.C. 20006

Michael Specht
921 Langdon Court
Annapolis, Maryland 21403

Mr. Anthony Muhammad Chairperson
Advisory Neighborhood Commission 4B
Rabaut Administration Building
P.O. Box 60581
Washington, D.C. 20039-0581

A handwritten signature in cursive script, reading "Madeliene H. Dobbins".

MADELIENE H. DOBBINS
Director

Date: JUN 4 1986